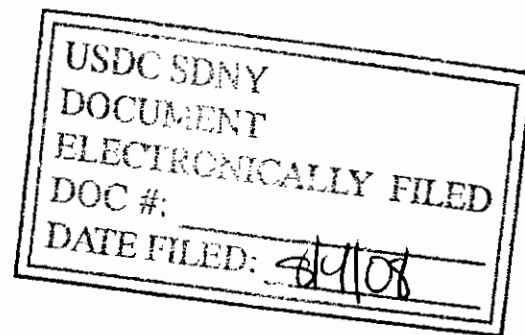


MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: PIERRE G. ARMAND
Assistant United States Attorney
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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
UNITED STATES OF AMERICA,

Plaintiff,

v.

DELUXE FOOD MARKET, INC., and
KA CHE,

Defendants.
-----X

07 Civ. 10636 (LAP) (AJP)

**CONSENT DECREE AND
JUDGMENT**

WHEREAS, on November 28, 2007, the United States of America (the "United States"), by its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, filed a civil complaint (the "Complaint") against defendants Deluxe Food Market, Inc., and Ka Che, the president of Deluxe Food Market, Inc. (collectively, "Defendants"), under the Federal Meat Inspection Act ("FMIA"), 21 U.S.C. §§ 601 et seq., and the Poultry Products Inspection Act ("PPIA"), 21 U.S.C. §§ 451 et seq., for permanent injunctive relief enjoining Defendants from preparing and selling in commerce meat, meat products, poultry and/or poultry products required to be inspected and passed by the United States Department of Agriculture (the "USDA"), unless such goods are so inspected and passed by the USDA; and

WHEREAS, the parties desire to settle this action, and therefore consent to the entry by

the Court of the following provisions as judgment in this action:

NOW, on the joint application of all parties, it is hereby STIPULATED, CONSENTED TO and AGREED that:

1. This Court has personal jurisdiction over all parties to this action and jurisdiction over the subject matter of the Complaint.

2. Defendants, their successor and assigns, their agents and employees, and those persons in active concert or participation with them, whether directly or indirectly, are permanently enjoined from: (a) selling, transporting, offering for sale or transport, or receiving, in commerce, any meat, meat product, poultry and/or poultry product required to be inspected by the USDA, unless such goods are prepared under USDA inspection and in accordance with applicable laws and regulations, or are validly prepared under the retail exemption provisions of the FMIA or PPIA, respectively 21 U.S.C. §§ 661(c)(2) and 464(a), and the implementing regulations at 9 C.F.R. Parts 303.1 et seq. and 381.10; and (b) engaging in any other conduct that would violate the FMIA or the PPIA.

3. Defendants, their successor and assigns, their agents and employees: (a) shall, within thirty (30) days of the entry of this Consent Decree and Judgment ("Decree"), display notice(s) at Defendants' place of business, in forms, locations and quantities to be approved by the USDA, that no meat, meat product, poultry and/or poultry product shall be sold by or purchased from Defendants for purposes of resale; (b) shall, within three (3) days of the entry of this Decree, provide a copy of the questionnaire attached hereto as Exhibit A (the "Questionnaire") to any person who attempts to purchase, alone or in concert with other persons, via a single transaction or via multiple transactions within a 48-hour period, thirty-five (35)

pounds or more of any meat, meat product, poultry and/or poultry product ("Prospective Bulk Purchaser"); (c) shall not sell any meat, meat product, poultry and/or poultry product to any Prospective Bulk Purchaser who declines to complete the Questionnaire or who answers "Yes" to either of the first two questions of the Questionnaire; (d) shall provide a copy of this Decree and a Chinese translation of the Questionnaire to any Prospective Bulk Purchaser upon request; (e) shall retain any response from a Prospective Bulk Purchaser to the Questionnaire in a secure location for a period of three (3) years from the date of origination of such response, after which Defendants shall destroy the response and any copy thereof, provided however that Defendants shall not destroy any such documents unless and until Defendants have provided written notice to counsel for the United States of Defendant's intent to destroy the documents and thirty (30) days have elapsed from the date of service of the notice; (f) shall require the person completing the Questionnaire to present government-issued photo identification for purposes of verifying the contact information provided in the Questionnaire; (g) shall provide a copy of any response to the Questionnaire to the USDA and/or the United States Department of Justice ("DOJ") upon request; and (h) shall not use any response to the Questionnaire for any purpose other than to facilitate the Government's enforcement of the FMIA, the PPIA and the terms of this Decree. A Prospective Bulk Purchaser must complete a separate Questionnaire for each and every purchase of thirty-five (35) pounds or more of meat, meat product, poultry and/or poultry product.

4. Defendants, their successor and assigns, their agents and employees, shall prepare and maintain records documenting all sales to any Prospective Bulk Purchaser of any meat, meat product, poultry and/or poultry product. Such records shall include, but are not limited to, responses to the Questionnaire, and information concerning the nature and weight of the goods

sold, the date and time of the sales transaction, and the price. Defendants shall maintain each record for a period of not less than three (3) years from the date of origination of such record. Defendants shall not destroy any such record maintained for more than three (3) years from the date of its origination unless and until Defendants have provided written notice to counsel for the United States of Defendants' intent to destroy the record and thirty (30) days have elapsed from the date of service of the notice.

5. Defendants, their successor and assigns, their agents and employees, shall, at all reasonable times, afford duly authorized representatives of the USDA full access to Defendants' place of business. Full access shall include full and unimpeded opportunity to inspect and examine Defendants' facilities, inventory and records, to copy all such records, including responses to the Questionnaire, and to take reasonable samples of inventory. All reasonable times shall include any hours during which Defendants are doing business. Upon request of the USDA, Defendants shall provide English translations of any and all records.

6. Defendants agree that, upon violation of any of the provisions of this Decree, Defendants shall be immediately jointly and severally liable to the United States for each item of uninspected meat, meat product, poultry and/or poultry product sold, transported, offered for sale or transport, or received, in commerce, as follows: (a) the sum of \$100.00 per pound for the first violation; (b) the sum of \$200.00 per pound for the second violation; and (c) the sum of \$500.00 per pound for the third and any subsequent violation.

7. Defendants shall pay to the United States the sum of \$11,000, representing investigative costs incurred in connection with the investigation of this matter. This amount shall constitute a debt due and owing upon entry of this Decree by the Court and is to be

discharged by payment to the United States within thirty (30) days of the entry of this Decree. Defendants shall make such payment by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Southern District of New York.

8. Should enforcement proceedings beyond this Decree be necessary, the United States shall recover from Defendants the court costs and expenses incurred by the DOJ and USDA in such proceedings, including the investigative and preparation time at the rate of \$49.93 per hour, as set forth in 9 C.F.R. § 391.2.

9. After Defendants have maintained continuous satisfactory compliance with all requirements of the Decree, as well as all applicable provisions of the FMIA and PPIA, for a period of five (5) years following the entry of the Decree, Defendants may serve upon the United States a request for termination of the Decree ("Request for Termination"), explaining how Defendants have satisfactorily complied with all such requirements, together with all necessary supporting documents. The parties shall thereafter confer informally concerning the Request for Termination and any disagreement that the parties may have as to whether Defendants have satisfactorily complied with the requirements for termination of the Decree. If the United States agrees that the Decree may be terminated, the parties shall submit, for the Court's approval, a joint stipulation terminating the Decree. If the United States does not agree that the Decree may be terminated, Defendants may file a motion with this Court seeking relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure, provided, however, that Defendants shall not file any such motion until sixty (60) days after service of the Request for Termination on the United States. Defendants shall bear the burden of demonstrating to the Court that they have satisfactorily complied with all requirements of the Decree and applicable


provisions of the FMIA and the PPIA, and that there is good cause to terminate the Decree under Rule 60(b).

10. This Decree does not limit any rights or remedies available to the United States for any violation of the FMIA or PPIA, and associated regulations, including any rights or remedies available to the United States for any criminal violations.

11. This Court retains jurisdiction to issue further orders as may be necessary to construe, carry out, modify, or enforce compliance with this Decree, and should Defendants fail to abide by and perform all the terms and conditions of this Decree or such further decree as may be entered in this action, the United State shall apply only to this Court for relief, and any alleged violation of this Decree shall be adjudicated by this Court.

Dated: New York, New York
July 23, 2008

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York


By: 
PIERRE G. ARMAND
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Tel.: (212) 637-2724
Fax: (212) 637-2730

Dated: New York, New York
July __, 2008

LAW OFFICES OF RAYMOND CHIN
Attorneys for Defendants Deluxe Food
Market, Inc., and Ka Che


By:


RAYMOND CHIN
305 Broadway, Suite 305
New York, New York 10007
Tel.: (212) 406-2240
Fax: (212) 406-2271


KA CHE
President
Deluxe Food Market, Inc.
79 Elizabeth Street
New York, New York 10013

*The Clerk of the Court shall mark
this action closed and all
pending motions denied as moot*
SO ORDERED:

Dated: New York, New York
August 4, 2008


HON. LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

Date:

In Re:

-v-

Case #:

()

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

J. Michael McMahon, Clerk of Court

by: _____

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213

-----X
-V-
-----X

NOTICE OF APPEAL

civ. ()

Notice is hereby given that _____
(party)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the _____ day of _____, _____
(day) (month) (year)

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

FORM 1

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**MOTION FOR EXTENSION OF TIME
TO FILE A NOTICE OF APPEAL**

civ.

()

Pursuant to Fed. R. App. P. 4(a)(5), _____ respectfully
(party)
requests leave to file the within notice of appeal out of time. _____
(party)
desires to appeal the judgment in this action entered on _____ but failed to file a
(day)
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

(Signature)

(Address)

(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 2

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL
AND
MOTION FOR EXTENSION OF TIME**

civ. ()

1. Notice is hereby given that _____ hereby appeals to
(party)
the United States Court of Appeals for the Second Circuit from the judgment entered on _____.
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time

(party)
respectfully requests the court to grant an extension of time in
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, _____ states that
(party)
this Court's judgment was received on _____ and that this form was mailed to the
(date)
court on _____
(date)

(Signature)_____
(Address)_____
(City, State and Zip Code)

Date: _____

() _____
(Telephone Number)

Note: You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

FORM 3

**United States District Court
Southern District of New York
Office of the Clerk
U.S. Courthouse
500 Pearl Street, New York, N.Y. 10007-1213**

-----X
-V-
-----X

AFFIRMATION OF SERVICE

civ. ()

I, _____, declare under penalty of perjury that I have
served a copy of the attached _____

upon _____

whose address is: _____

Date: _____
New York, New York

(Signature)

(Address)

(City, State and Zip Code)

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006